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October 30, 2002

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Ex Parte Filing by Vycera Communications, Inc. to Correct Certain Rates Listed
in Its Comments concerning Application by SBC Communications, Inc. Pursuant
to Section 271 of the Telecommunications Act of 1996 To Provide In-Region,
InterLATA Services in California, WC Docket No. 02-306

Dear Secretary Dortch:

On October 9, 2002, Vycera Communications, Inc. ("Vycera") filed comments in opposition to SBC Communications, Inc.'s ("SBC") California 271 application. On Page 8 of its comments, Vycera correctly states that the Transiting – Local Traffic rates contained in a Reciprocal Compensation Amendment, which Pacific Bell wanted Vycera to sign before allowing Vycera to adopt the rest of an AT&T Agreement, were higher than those applicable under the AT&T Agreement that it wanted to adopt. Vycera listed the rates applicable under the AT&T Agreement as \$0.000750 setup per attempt, \$0.0011300 setup per completed message, and \$0.000670 holding time per MOU.

It has come to Vycera's attention that the rates applicable under the AT&T Agreement were lowered pursuant to an amendment in July 2002 and are now \$0.000155 setup per attempt, \$0.000234 setup per completed message, and \$0.000139 holding time per MOU. This correction of rates does not change Vycera's argument or conclusions. Attached are 1) a revised Page 8 to Vycera's comments, 2) a revised cover page for Exhibit 2 to Vycera's comments, and 3) the relevant amendment to the AT&T Agreement to be added to Exhibit 2, Attachment A to Vycera's comments.

Sincerely,



Patrick J. Donovan
Rogena Harris
Katherine A. Rolph

Counsel for Vycera Communications, Inc.

ATTACHMENT 1

Revised Page 8 of Vycera's Comments

bound traffic is exempt pursuant to FCC or CPUC order, there is no legitimate basis whatsoever to preclude Vycera into adopting any part of the AT&T Agreement or to demand that Vycera “negotiate” new provisions prior to adoption.¹⁹ Pacific Bell wrongfully turned a simple adoption request first into a negotiation, and then into an arbitration, at great expense to Vycera.

The twenty-one pages of revisions proposed by Pacific Bell to the arbitrated agreement Vycera seeks to adopt “reasonably relate” only to Pacific Bell’s effort to find a semi-plausible basis upon which to entice CLECs, who cannot offer services without an interconnection agreement in place, into agreeing to higher rates and terms far less favorable than those to which they are legally entitled. For example, the rates for “Transiting-Local Traffic” (not a reciprocal compensation rate) that Pacific Bell tucked into the proposed Reciprocal Compensation Amendment it wanted Vycera to sign before Vycera would be allowed to adopt the AT&T Agreement are far higher than those applicable under the AT&T Agreement (\$0.0011300 setup per call, \$0.0027700 holding term per MOU under the proposed Reciprocal Compensation amendment proposed by Pacific Bell²⁰ versus \$0.000155 setup per attempt, \$0.000234 setup per completed message, \$0.000139 holding time per MOU under the AT&T Agreement which Vycera is entitled to adopt).²¹ Because Carriers such as Vycera offering local service via UNE-P do not provide transit switching, only Vycera, not Pacific Bell, would be paying the higher charges for “Transiting-Local Traffic.”

¹⁹ To the extent that SBC Pacific Bell mounts an argument that the clause in the current AT&T Agreement which already precludes payment for traffic if prohibited by FCC order is “unclear,” which Vycera strongly believes it is not, now is not the time to debate that point. That time would come if, in the future, one of the parties demanded compensation for ISP-bound traffic, and the other party claimed it was not payable. That may never happen.

²⁰ Exhibit 2, Pacific Bell Application for Arbitration, Attachment B, “Negotiated Appendix Reciprocal Compensation (After FCC Order No. 01-131),” at p. 21, Appendix Pricing.

²¹ Exhibit 2, Pacific Bell Application for Arbitration, Attachment A, AT&T Agreement, Attachment 8 Pricing, Appendix C, Section 3.1; Attachment 8 Pricing, Section 5.4; Attachment 8 Pricing, Appendix A-1, p. 1, as amended by Amendment to the Interconnection Agreement Between SBC Pacific Bell Telephone Company and AT&T Communications of California, dated July 19, 2002, at Attachment A, Page 1.

ATTACHMENT 2

Revised Cover Page for Exhibit 2 to Vycera's Comments

Exhibit 2

Pacific Bell Telephone Company's Application for Arbitration of Advice Letter No. 57 Filed by Vycera Communications, Inc. f/k/a Genesis Communications International, Inc., U-5477-C ("Pacific Bell Application for Arbitration")

Attachment A, AT&T Agreement, included only in relevant part: Attachment 8, Pricing; Attachment 18, Interconnection; Amendment to the Interconnection Agreement Between SBC Pacific Bell Telephone Company and AT&T Communications of California, dated July 19, 2002; and Amendment 3.

Attachment B, "Attachment 19, Negotiated Appendix Reciprocal Compensation (After FCC Order No. 01-131), included.

Attachment C, Testimony of Linda De Bella in Behalf of Pacific Bell Telephone Company's (U 1001 C) Petition in Arbitration not included.

ATTACHMENT 3

**Amendment to the Interconnection Agreement Between SBC Pacific Bell Telephone Company and AT&T Communications of California, dated July 19, 2002
(to be added to Exhibit 2, Attachment A to Vycera's Comments)**

AMENDMENT
TO THE INTERCONNECTION AGREEMENT
BETWEEN
SBC PACIFIC BELL TELEPHONE COMPANY AND
AT&T COMMUNICATIONS OF CALIFORNIA

WHEREAS, SBC PACIFIC BELL TELEPHONE COMPANY ("PACIFIC")*, formerly Pacific Bell, and AT&T Communications of California ("CLEC") (collectively, the "Parties") entered into an Agreement relating to local interconnection ("Agreement") and which permits the Parties to mutually amend the Agreement in writing; and

WHEREAS, on May 16, 2002, the California Public Utilities Commission ("Commission") adopted D.02-05-042, establishing interim monthly recurring prices for unbundled loop and switching ("Decision");

WHEREAS, the Commission ordered that all interconnection agreements between Pacific and other carriers be amended to reflect the reduced loop and switching prices;

WHEREAS, the reduced prices are interim pending the Commission's decision on final unbundled loop and switching rates and are subject to adjustment from May 16, 2002 through the date of adoption of final prices.

WHEREAS, pursuant to the Commission's Decision this amendment ("Amendment") shall become effective thirty (30) days after filing,

NOW THEREFORE the Parties agree as follows:

- I. Appendix Pricing, Attachment A to the Agreement shall be amended to substitute the prices for unbundled loop and switching with the prices set forth in Attachment A, which is attached hereto and incorporated herein.
- II. The prices for unbundled loop and switching set forth in Attachment A shall be effective as of May 16, 2002.
- III. Pacific shall make billing adjustments in accordance with ordering paragraphs 4 and 5 of the Commission's Decision, D.02-05-042.
- IV. The Parties agree that executing this Amendment shall not in any way prohibit, limit, or otherwise affect, or act as a waiver by, either Party from pursuing of any of its

rights, remedies or arguments with respect to any such rate changes, including but not limited to any Commission decisions, orders, or proceedings leading thereto and any remands thereof or any other related decisions or proceedings, including the right of each Party to seek legal review or a stay of any such, decisions, orders, or otherwise. Such rights, remedies, and arguments are expressly reserved by each Party.

- V. EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT, and such terms are hereby incorporated by reference and the Parties hereby reaffirm the terms and provisions thereof.
- VI. This Amendment is effective only for the term of the Agreement.
- VII. This Amendment shall be filed with and shall be subject to approval by the Commission.
- VIII. This Amendment is dated July 19, 2002.

* On January 25, 1999, the United States Supreme Court issued its opinion in *AT&T Corp. v. Iowa Utilities Board*, 525 U.S. 366 (1999) (and on remand *Iowa Utilities Board v. FCC*, 219 F.3d 744 (8th Cir. 2000) and *Ameritech v. FCC*, No. 98-1381, 1999 WL 116994, 1999 Lexis 3671 (June 1, 1999) and on appeal to and remand by the United States Supreme Court, *Verizon v. FCC*, et. al, 535 U.S. __ (2002)). The Parties further acknowledge that on May 24, 2002, the United States Court of Appeals for the District of Columbia Circuit issued its decision in *United States Telecom Association, et. al v. FCC*, No. 00-101, in which the Court granted the petitions for review of the Federal Communications Commission's ("FCC") Third Report and Order and Fourth Further Notice of Proposed Rulemaking in CC Docket No. 96-98 (FCC 99-238) ("the UNE Remand Order") and the FCC's Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98 (FCC 99-355) (rel. December 9, 1999) ("the Line Sharing Order"), specifically vacated the Line Sharing Order, and remanded both these orders to the FCC for further consideration in accordance with the decision. In addition, on November 24, 1999, the FCC issued its Supplemental Order *In the Matter of the Local Competition Provisions of the Telecommunications Act of 1996*, (FCC 99-370) and on June 2, 2000, its Supplemental Order Clarification, (FCC 00-183), in CC Docket 96-98. By executing this Amendment, PACIFIC does not waive any of its rights, remedies or arguments with respect to any such decisions or proceedings and any remands thereof, including its right to seek legal review or a stay of such decisions and its rights contained in the Interconnection Agreement. The Parties further acknowledge that on April 27, 2001, the FCC released its Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, *In the Matter of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-bound Traffic* (the "ISP Intercarrier Compensation Order"), which was remanded in *WorldCom, Inc. v. FCC*, No. 01-1218 (D.C. Cir. 2002). By executing this Amendment and carrying out the intercarrier compensation rates, terms and conditions herein, PACIFIC does not waive any of its rights, and expressly reserves all of its rights, under the ISP Intercarrier Compensation Order, or any other regulatory, legislative or judicial action, including but not limited to its right to exercise its option at any time in the future to invoke the Intervening Law or Change of Law provisions and to adopt on a date specified by PACIFIC the FCC ISP terminating compensation plan, after which date ISP-bound traffic will be subject to the FCC's prescribed terminating compensation rates, and other terms and conditions.

ATTACHMENT A

Loops

	<u>Recurring</u>
2-Wire Analog (Basic) Zone 1	\$ 8.38
2-Wire Analog (Basic) Zone 2	\$ 11.27
2-Wire Analog (Basic) Zone 3	\$ 19.64
2-Wire Analog (Basic) Statewide /1/	\$ 9.93
2-wire Digital Zone 1 /2/	\$ 12.68
2-wire Digital Zone 2 /2/	\$ 15.92
2-wire Digital Zone 3 /2/	\$ 24.61
2-wire Digital Statewide /1/	\$ 14.37

Switching**Ports**

2 Wire Analog Port	\$ 0.88
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Usage

Interoffice Originating	
Setup per Call	\$ 0.001817
Holding Time per MOU	\$ 0.000563
Interoffice Termination	
Setup per Call	\$ 0.002142
Holding Time per MOU	\$ 0.000572
Intraoffice	
Setup per Call	\$ 0.004280
Holding Time per MOU	\$ 0.001108
Tandem Switching	
Setup per Call	\$ 0.000155
Setup per Completed Message	\$ 0.000234
Holding Time per MOU	\$ 0.000139

Reciprocal Compensation

Interoffice Termination	
Setup per Call	\$ 0.002142
Holding Time per MOU	\$ 0.000572
Tandem Switching	
Setup per Call	\$ 0.000155
Setup per Completed Message	\$ 0.000234
Holding Time per MOU	\$ 0.000139

Vertical Features

Call Forwarding Variable	\$ 0.17
Busy Call Forwarding	\$ 0.17
Delayed Call Forwarding	\$ 0.17
Call Waiting	\$ 0.17
Three Way Calling	\$ 0.17
Call Screen	\$ 0.19
Message Waiting Indicator	\$ 0.17
Repeat Dialing	\$ 0.20
Call Return	\$ 0.20
Call Forwarding Busy/delay	\$ 0.17
Remote Call Forwarding	\$ 0.28
Speed Calling 8	\$ 0.17
Speed Calling 30	\$ 0.17

Vertical Features - Continued**Recurring**

Intercom	\$	0.19
Intercom Plus	\$	0.19
Remote Access to Call Forwarding	\$	0.18
Select Call Forward	\$	0.18
Direct -Shared	\$	0.17
Direct -Unshared	\$	0.17
Call Trace	\$	0.17
Speed Call 6	\$	0.17
Call Restriction	\$	0.27
Distinctive Ringing	\$	0.17
Directed Call Pickup	\$	0.17
WATS Access per Port	\$	0.17
WATS Access per Group	\$	0.53
Caller ID	\$	0.22
Caller ID Blocking	\$	0.18
Caller Hold	\$	0.17
DNCF	\$	0.29
Hunting	\$	0.09

DSL Capable Loops:

2-Wire Digital Loop ISDN/IDSL		
PSD #1 - 2-Wire Digital Loop ISDN/IDSL Zone 1	\$	12.68
PSD #1 - 2-Wire Digital Loop ISDN/IDSL Zone 2	\$	15.92
PSD #1 - 2-Wire Digital Loop ISDN/IDSL Zone 3	\$	24.61
PSD #1 - 2-Wire Digital Loop ISDN/IDSL StateWide /1/	\$	14.37
2-Wire xDSL Loop		
PSD #1 - 2-Wire xDSL Loop Zone 1	\$	8.38
PSD #1 - 2-Wire xDSL Loop Zone 2	\$	11.27
PSD #1 - 2-Wire xDSL Loop Zone 3	\$	19.64
PSD #1 - 2-Wire xDSL Loop Statewide /1/	\$	9.93
PSD #2 - 2-Wire xDSL Loop Zone 1	\$	8.38
PSD #2 - 2-Wire xDSL Loop Zone 2	\$	11.27
PSD #2 - 2-Wire xDSL Loop Zone 3	\$	19.64
PSD #2 - 2-Wire xDSL Loop Statewide /1/	\$	9.93
PSD #3 - 2-Wire xDSL Loop Zone 1	\$	8.38
PSD #3 - 2-Wire xDSL Loop Zone 2	\$	11.27
PSD #3 - 2-Wire xDSL Loop Zone 3	\$	19.64
PSD #3 - 2-Wire xDSL Loop Statewide /1/	\$	9.93
PSD #4 - 2-Wire xDSL Loop Zone 1	\$	8.38
PSD #4 - 2-Wire xDSL Loop Zone 2	\$	11.27
PSD #4 - 2-Wire xDSL Loop Zone 3	\$	19.64
PSD #4 - 2-Wire xDSL Loop Statewide /1/	\$	9.93
PSD #5 - 2-Wire xDSL Loop Zone 1	\$	8.38
PSD #5 - 2-Wire xDSL Loop Zone 2	\$	11.27
PSD #5 - 2-Wire xDSL Loop Zone 3	\$	19.64
PSD #5 - 2-Wire xDSL Loop Statewide /1/	\$	9.93
PSD #7 - 2-Wire xDSL Loop Zone 1	\$	8.38
PSD #7 - 2-Wire xDSL Loop Zone 2	\$	11.27
PSD #7 - 2-Wire xDSL Loop Zone 3	\$	19.64
PSD #7 - 2-Wire xDSL Loop Statewide /1/	\$	9.93

HFPL Loop

HFPL Loop Zone 1	\$	4.19
HFPL Loop Zone 2	\$	5.64
HFPL Loop Zone 3	\$	9.82
HFPL Loop Statewide /1/	\$	4.97

Notes:

/1/ CLECs have the choice to lock in either the statewide average loop rate, regardless of zone, or the deaveraged loop rates based on established zones. CLECs may not use both rate structures.

CLECs who choose deaveraged loop rates may draw from the CHCF-B fund pursuant to D. 02-02-047.

/2/ The 2-Wire Digital Loop rates are calculated by adding the 2-Wire Analog (Basic) Loop rates to the ISDN Option rates included in the current California Recurring (OANAD) Pricing Schedule.